

REMARKS

The Final Office Action issued November 29, 2001 has been reviewed and the comments of the U.S. Patent and Trademark Office have been considered. Claim 16 has been canceled. Claim 24 has been added to particularly point out and distinctly claim the invention. Accordingly, Applicants request reconsideration of the pending claims 1-15 and 20-24.

Applicants thank the Examiner for the opportunity to address the merits of the claimed invention at the personal interview of May 13, 2002. During the interview, Applicants' representative (Khoi Ta, Reg. No. 47,300) explained why Applicants' invention is patentable over the prior art, and proposed claim amendments to more particularly point out and distinctly claim Applicants' invention. It was agreed that a sidewall sprinkler having a K factor greater than 9 with at least each of the following features is patentable such that the prior art rejection set forth in the Final Office Action appears to be overcome. The features are: (1) a deflector with a flat canopy; (2) frame arms of the sprinkler body located on a plane that is parallel to the flat canopy and intersecting a central axis of the sprinkler (e.g., on a horizontal plane); (3) a deflector with only two support arms for a flat canopy; (4) a deflector with only two support arms for a flat canopy with a single window or flow opening between the two support arms; and (5) a deflector with two support arms for a flat canopy spaced at 1.5 inches or more. The Examiner's Interview Summary (PTO-413) acknowledges that these proposed amendments appear to overcome the prior art rejection in the Final Office Action and, particularly, identifies some of these features. Applicants have added new claim 24, which includes the features specifically identified by the Examiner and submit that claim 24 is allowable over the prior art of record. Claim 24 is supported by the originally filed specification at, for example, pages 8-11 and Figs. 1-11.

Claims 1-16 and 20-23 stand rejected under 35 U.S.C. §103 as being unpatentable over U.S. Patent No. 4,296,816 to Fischer in view of U.S. Patent 5,810,263 to Tramm. Applicants respectfully traverse this rejection because Fischer or Tramm, singularly or in combination, fails to teach or suggest the claimed invention as a whole. Applicants respectfully maintain the

proposed combination fails to teach or suggest the claimed invention as a whole, and reiterate that position with the following remarks.

Fischer shows a sidewall sprinkler but fails to state a K-factor for the sprinkler. Applicants have submitted data sheets for sprinklers covered by this patent. *See, e.g.*, Grinnell Corporation, "Horizontal Sidewall Sprinkler, 140° F RES/QR-EC & 165°F RES/QU-EC/EC Model FR-1 FAST RESPONSE SOLDER TYPE, 17/32" (20MM) ORIFICE," (March 1995, pg. 8), *in* Information Disclosure Statement, August 21, 2001. Each of the submitted data sheets specifies that the K-factor for the sprinkler covered by the Fischer patent is less than 9. Furthermore, Mr. Golinveaux has filed declarations stating that at no time prior to the filing date of the above captioned application did Fischer build or test a sidewall sprinkler with a K factor greater than 9. And Applicants are unaware of any sidewall sprinkler with a K factor greater than 9 that has been commercialized. *See, e.g.*, Golinveaux Supplemental Declaration, ¶ 7 (July 3, 2001). Notwithstanding the deficiency of Fischer, the Office Action relies on Tramm in an attempt to modify Fischer so as to reach the claimed invention as a whole. Tramm, however, provides no suggestion to modify Fischer to a K factor greater than 9 with a reasonable expectation of success. Therefore, the proposed modification to Fischer in view of Tramm fails to reach the claimed invention as a whole. Accordingly, claims 1 and 20 are patentable over Fischer or Tramm, singularly or in combination thereof.

Claims 2-15 and 21-23 depend ultimately from claims 1 and 20, are also allowable at least because claims 1 and 20 are allowable, as well for reciting additional features.

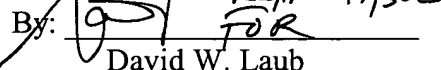
Applicants respectfully request entry of the Amendment because the Amendment places the application in condition for allowance or, alternatively, in better form for appeal.

In view of the foregoing amendments and remarks, Applicants respectfully request the reconsideration and reexamination of this application and allowance of the pending claims. Applicants respectfully invite the Examiner to contact the undersigned at (609) 919-6644 if there are any outstanding issues that can be resolved via a telephone conference.

EXCEPT for issue fees payable under 37 C.F.R. §1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0310. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. §1.136(a)(3).

Respectfully submitted,

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